

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

EMPLOYERS AND LOCAL 534 MEAT)	
EMPLOYEES PENSION FUND, and WILLIAM)	
P. FALBE, STEPHEN T. MALEC, KEVIN)	
BECKERLE, and DONALD G. SCHAPER, in their)	
representative capacities as Trustees of the)	
Employers and Local 534 Meat Employees)	
Pension Fund,)	
)	Case No.
Plaintiffs,)	
)	
vs.)	
)	
NORRENBURNS FOODS, INC., d/b/a)	
TOM'S IGA and d/b/a TOM'S)	
SUPERMARKETS,)	
)	
Defendant.)	

COMPLAINT

Come now plaintiffs, by and through their attorneys, and for their cause of action against defendant states:

1. Jurisdiction of this cause of action and the parties to it is conferred upon this Court by subsections (a), (b), and (c) of Section 301 of the Labor Management Relations Act of 1947, as amended ("LMRA"), 29 U.S.C. §185. Jurisdiction of this cause of action and the parties to it is also conferred by Sections 502(e)(1) and (f) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. §1132(e)(1) and (f). Venue in this Court is appropriate by virtue of Section 502(e)(2) of ERISA, 29 U.S.C. §1132(e)(2).

2. Plaintiffs Employers and Local 534 Meat Employees Pension Fund ("Pension Fund") is an employee benefit plan within the meaning of Sections 3(3) and 502(d)(1) of ERISA, 29 U.S.C. §1002(3) and §1132(d)(1), and is a multiemployer plan within the meaning of Section 3(37)(A) of

ERISA, 29 U.S.C. §1002(37)(A). Plaintiffs William P. Falbe, Stephen T. Malec, Kevin Beckerle and Donald G. Schaper are Trustees of the Pension Fund. The Trustees are fiduciaries within the meaning of Section 3(21)(A) of ERISA, 29 U.S.C. §1002(21)(A), with respect to those funds.

3. Defendant Norrenberns Foods, Inc. is an Illinois corporation which conducts business under the names Tom's IGA and Tom's Supermarkets. Defendant conducts business within this judicial district and is an employer in an industry affecting commerce within the meaning of Sections 2(2), 2(6), and 2(7) of the NLRA, 29 U.S.C. §§152(2), 152(6), and 152(7), and within the meaning of Sections 3(5), 3(11), 3(12), and 515 of ERISA, 29 U.S.C. §§1002(5), 1002(11), 1002(12), and 1145.

4. Defendant is bound by a collective bargaining agreement with United Food and Commercial Workers Local 534 (the "Union").

5. Under the terms of the collective bargaining agreement, defendant has been obligated to contribute on a monthly basis to the Pension Fund. The Fund and the Trustee plaintiffs are third-party beneficiaries of the collective bargaining agreement.

6. Under the terms of the collective bargaining agreement, defendant has been bound to the Agreement and Declaration of Trust of the Pension Fund.

7. Defendant has failed to pay the amounts which it owes to the Pension Fund.

8. Absent an audit of defendant's records, it will be impossible to ascertain the full amounts owed.

9. Pursuant to ERISA, 29 U.S.C. §1132(g)(2), defendant is required to pay liquidated damages of 20% of the contributions owed. Pursuant to the trust agreements and ERISA, 29 U.S.C. 1132, defendant is required to pay plaintiffs' attorneys' fees and court costs.

WHEREFORE, plaintiffs pray:

- (a) That this Court enter its judgment and decree requiring defendant to submit its records for audit by plaintiffs so the plaintiffs can determined the amounts owed by defendant.
- (b) That this Court enter its judgment and decree for amounts owed by defendant in delinquent contributions with liquidated damages and interest thereon;
- (c) That this Court enter an order compelling and enjoining defendant to submit all future payments in a timely fashion under the current or any subsequent collective bargaining agreement to which the Union and defendant is or may become bound; and
- (d) That this Court enter its order, judgment and decree against the defendant for reasonable attorneys' fees and costs incurred in this action, and granting such other and further relief as the Court may deem just and proper.

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Attorneys for Plaintiffs

Certificate of Service

The undersigned hereby certifies that a copy of the foregoing was electronically filed with the Clerk of the Court on August 10, 2016, and that copies were mailed, by certified mail, return receipt requested, to the Secretary of Labor, United States Department of Labor, P. O. Box 1914, Washington, D.C. 20013 and to the Secretary of Treasury, United States Treasury, 15th and

Pennsylvania Avenue, Washington, D.C. 20220.

/s/ Greg A. Campbell